

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2004-776

December 9, 2004

FOX ISLAND ELECTRIC COOPERATIVE, INC.  
Application for Approval of  
Issuance of Securities and Mortgage  
Bonds (35A-M.R.S.A. §902, §1101)  
(\$4,100,000)

ORDER APPROVING  
ISSUE OF SECURITIES  
AND MORTGAGE ON  
UTILITY PROPERTY

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

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**I. SUMMARY**

On November 15, 2004 Fox Island Electric Cooperative, Inc. (FIE or the Cooperative) filed with the Commission an application for approval of the issuance of securities, through the Rural Utilities Service (RUS) for the purpose of maintaining and upgrading its distribution system. FIE proposes to borrow \$4.10 million in multiple, individual drafts, none of which will have a final maturity of longer than thirty-five (35) years at a fixed interest rate of 5.0%. Each individual note will be secured by a mortgage on the Cooperative's property. This Order approves FIE's request.

**II. ANALYSIS & DECISION**

FIE plans install four new single-phase 35kV submarine cables between Rockland, Maine and North Haven Island, a distance of approximately 12.5 miles. The total cost of the project is estimated at \$6.74 million and FIE has been awarded a grant of approximately \$2.64 million from RUS in addition to the proposed financing. FIE will begin drawing on this credit facility following Commission approval and can continue to do so up to the \$4.10 million limit until November 1, 2009, however it is expected that construction, and thus the draw-period on the loan, will be completed by June 2005. No individual note will have an amortization period extending beyond November 1, 2039.

The 5.0% fixed interest rate, characterized by RUS as its "Hardship Rate," appears quite favorable for FIE as the most recent data from Moody's Investment Services indicates that the most highly rated long-term utility bonds are currently yielding 5.93%.<sup>1</sup> The Cooperative qualifies for the Hardship Rate because its average and residential rates (per kWh) are well above State averages.<sup>2</sup> The Hardship Loan

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<sup>1</sup> Yield is for Aa-rated utilities on of December 2, 2004 on Moodys.com. At this time Moody's has not issued a "Aaa" rating for any US utility.

<sup>2</sup> FIE's December 3, 2004 supplemental filing notes that its per kWh average and residential rates exceed Maine's average rates by 57% and 22% respectively.

Rate program is the only currently offered RUS loan program carrying a fixed rate for the life of the loan.

FIE raised its electric distribution rates by more than 14% on February 15, 2003 and expects to request a further increase of almost 17% in 2005. Nearly all of the expected increase will be directly attributable to this project. The Cooperative has concluded that cable replacement is the best option available to guarantee reliability of electric service on the islands and has stated that continuing to repair the existing cables is no longer cost effective. In addition, failure to go forward now would require FIE to forfeit the \$2.64 million in RUS grant funds, thus compromising service reliability in the near term and potentially leaving ratepayers with a bill that is at least \$2.64 million higher at some point in the future.

Pursuant to an Amended Delegation Order dated January 9, 1996, in Docket No. 94-401, the Commission delegated to the Director of Finance pursuant to 35-A M.R.S.A. § 107 (4), the authority to grant the Approval of Stocks, Bonds and Notes by the Public Utilities Commission, Chapter 9, 35-A M.R.S.A., in those circumstances that involved the approval of Maine Municipal Bond Bank (MMBB), Rural Utilities Service (RUS), National Rural Utilities Cooperative Finance Corporation (CFC), Rural Telephone Bank (RTB) and CoBank, ACB (CoBank) financing applications by telecommunication and electric utilities. The approval of the Director of Finance shall be in the form of an Order, copies of which shall be maintained in the files of the office of the Administrative Director.

Having reviewed the application of the Cooperative, together with data provided in support of it, it is the opinion of the Commission that the proceeds of the issuance of the securities are required in good faith for the purposes enumerated in 35-A M.R.S.A. § 901. In approving this securities issue, consistent with normal practice and pursuant to 35-A M.R.S.A. § 902(4), the Commission does not imply approval of the Company's capital needs, capital costs or capitalization ratio for rate making purposes, nor does this Order limit or restrict the powers of the Commission in determining or fixing any rate.

Although FIE has not requested approval of this transaction under 35-A M.R.S.A. § 1101 (mortgaging of utility property), the loan documents included in the filing clearly indicate that this is required by RUS. Mortgaging utility property is customary in transactions of this nature and because it is a condition of approval for the lender in this instance, the Commission also approves mortgaging utility property in connection with this financing pursuant to 35-A M.R.S.A. § 1101.

Accordingly, pursuant to the Amended Delegation Order dated January 9, 1996, in Docket No. 94-401, I

#### O R D E R

1. That Fox Island Electric Cooperative, Inc. (FIE) is authorized to issue securities collateralized by a mortgage interest on its utility property to the Rural Utilities

Service (RUS) as described in its application, in a sum not to exceed \$4,100,000 to be used solely for the purposes described in its filing, at a fixed rate of 5.00%, with a final maturity date of November 1, 2039 (35 years).

2. That FIE report to the Acting Director of Finance, in writing its doings pursuant to this Order within sixty (60) days of the date of this Order.

3. That a copy of this Order be mailed to interested parties and this Docket be closed.

Dated at Augusta, Maine, this 9<sup>th</sup> day of December, 2004.

BY ORDER OF THE DIRECTOR OF FINANCE

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Richard M. Kania

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 21 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.